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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,892	02/02/2004	Richard Finocchio	12406/81	1099

7590 09/11/2006  
Andrew L. Reibman, Esq.  
KENYON & KENYON  
One Broadway  
New York, NY 10004

EXAMINER

LAYNO, BENJAMIN

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/770,892

Applicant(s)

FINOCCHIO, RICHARD

Examiner

Benjamin H. Layno

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Applicant's arguments filed 07/05/06 have been fully considered but they are not persuasive. The rejections follow.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 8-13, 16-23, 25, 28-32, 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trade Products, Inc (TPI) in view of Such.

The TPI discloses a pull-tab game ticket. The game ticket comprises a substrate. The front side of the substrate comprises a game play area having five rows of concealed symbols, each row of symbols is concealed by a pull tab, removable opaque covering. The top most row of symbols (horizontal line), the left most column of symbols (vertical line) and EZ PayCode "\$22" is a first indicia visually indicating whether the game ticket is a winning ticket. A second indicia, comprises a first player key, Win-Code number "341240", also concealed by removable opaque covering, indicates whether the game ticket is a winning ticket. The second indicia also includes a customer key area located on a separate "Check Ticket". The customer key area comprises, second player key, a list of "Win-Code" numbers on front of the "Check Ticket". The TPI pull-tab ticket is determined as a winning ticket if the first player key

"Win-Code" number "341240" on the pull-tab ticket, matches the second player key

"Win-Code" number "341240" on the "Check Ticket".

The patent to Such teaches that it known to print various advertising indicia, Figs. 6 and 9 on the substrate of pull-tab tickets. In view of such teaching, it would have been obvious to print the TPI advertising list of winning "Win-Code" numbers on the front of the TPI pull-tab ticket. This modification would have saved on the manufacturing cost of printing the TPI list of winning "Win-Code" numbers on a separate "Check Ticket".

3. Claims 7, 24, 26, 27, 33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over TPI in view of Such as applied to claim 1 above, and further in view of Gerow.

The patent to Gerow teaches that is well known in the pull-tab ticket art to use scratch-off layer to conceal symbols in the player area, Fig. 2. Gerow also teaches that is it well known in the pull-tab ticket art to use non-numeric and non-alphabetic symbols, bar code 22', as a computer readable medium having stored thereon instructions adapted to be executed by a processor for the validation of a game ticket, see Fig. 7, and see computer system 120, Fig. 6. In view of such teaching, it would have been obvious to modify TPI's pull-tab tickets by substituting for the pull-tabs thereof, a scratch-off layer as taught by Gerow, col. 3, lines 35-38. This modification would have provided more security and less fraud to TPI's game tickets, since scratch-off layers provide a clear indication that a ticket has been used, while pull-tabs can be re-sealed.

Furthermore, it would have been obvious to incorporate bar codes to the TPI tickets in order to more accurately validate TPI's game tickets.

4. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over TPI in view of Such as applied to claim 1 above, and further in view of Koza.

The patent to Koza et al. teaches that it is well known to manufacture a plurality of instant-win lottery tickets in a book for distribution. In view of such teaching, it would have been obvious to manufacture a plurality of TPI game tickets in a book in order for convenient distribution.

#### ***Response to Arguments***

5. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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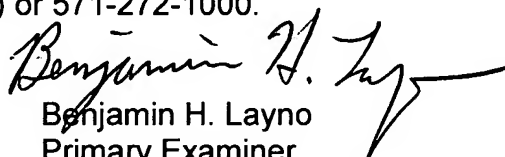
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571)272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Benjamin H. Layno  
Primary Examiner  
Art Unit 3711

bhl